

SHEARMAN & STERLING LLP

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August 29, 2008

Via Email

John P. Schnurer
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130

Christopher A. Hughes
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281

Re: Asustek Computer, Inc. v. International Business Machines Corporation
Case No. C08-01168 MMC MED

Dear Counsel:

The mediation in the above-referenced case is scheduled for September 9, 2008, at the offices of Shearman & Sterling LLP, 525 Market Street, 15th floor, San Francisco, CA, beginning at 1:00 p.m. I have arranged for us to be able to stay for however long the mediation is productive.

The deadline for the written statements described in ADR L.R. 6-7 is September 2, 2008. Please exchange and email or deliver those statements to my office by that date. Please include any key documents you feel I should read. As we discussed, I also invite you to submit to me--but not exchange--confidential statements relating, for example, to obstacles to or options for settlement.

Please prepare for the mediation by discussing each of the following items with your client:

- client's interests, not just positions, and how these interests could be met;
- other side's interests, and how these could be met;
- best and worst alternatives to a negotiated settlement;

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- strengths and weaknesses of your case; and
- estimated budget to litigate the case through trial.

As also discussed, under ADR L.R. 6-3(b) I will donate my preparation time and the first four hours of the mediation. If the case has not resolved and both parties agree to continue, I will charge the court-set rate of \$200 per hour for the next four hours. If the parties would like to continue after eight hours of session time, I will charge my hourly rate of \$850.

Due to the complexity of this case, if the mediation submissions warrant and the parties desire that I spend preparation time beyond the couple of hours expected of court-appointed mediators, the Court has authorized me to discuss an agreement in that regard. For example, I could donate the increased preparation time, but begin charging the \$200 per hour fee at the commencement of the mediation through the first four hours, at which point I would charge my regular hourly rate. If, when preparing your mediation statements, that becomes of interest, please let me know.

I look forward to working with you and your clients.

Very truly yours,

Vicki S. Veenker (mj)
Vicki S. Veenker

VSV:mj

cc: Clerk's Office - ADR Unit
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